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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/668,471 | 09/23/2003 | Edwin Collier | 21311-0001 | 2946 |

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EXAMINER

ABDELWAHED, ALI F

| | |
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| ART UNIT | PAPER NUMBER |
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3712

DATE MAILED: 03/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/668,471

Applicant(s)

COLLIER, EDWIN

Examiner

Ali Abdelwahed

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>9/23/03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the top" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 3 recites the limitations "the thickness", and "the length" in lines 1 and 2. There is insufficient antecedent basis for these limitations in the claim.

Claim 4 recites the limitations "the thickness portion", and "the sidewall opening" in lines 1 and 2. There is insufficient antecedent basis for these limitations in the claim.

Claim 5 recites the limitation "the thickness" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 7 recites the limitation "the entire striking top striking surface" in line 2. There is insufficient antecedent basis for this limitation in the claim.

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Claim 9 recites the limitation "the length" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 11 recites the limitation "the shape" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 13 recites the limitations "the shape" and "the at least one channel" in line 1. There is insufficient antecedent basis for these limitations in the claim.

Claims 14 and 15 recite the limitation "the at least one channel" in line 1. There is insufficient antecedent basis for this limitation in the claims.

Claim 16 recites the limitation "the entire striking bottom striking surface" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 17 recites the limitation "the bottom striking surface" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim(s) 2, 6, 8, 10, 12, 18 and 19 depend from rejected claim(s) 1 and include all of the limitations of claim(s) 1 thereby rendering these dependent claim(s) indefinite.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-5, and 18 are rejected under 35 U.S.C. 102(a) as being anticipated by U.S. Patent Application Publication No. 2003/0114073 A1 to Kaelin.

Kaelin discloses a wild game call (1) comprising: a box (3) having a base (15) attached to substantially vertical sidewalls (13, 14, 16, 17), the sidewalls forming an opening (see fig.1); a striking plate (2) comprising at least one friction material (see paragraph [0013]) and having a main body (9) which forms the top of the box, the striking plate having a top striking surface (10), the main body is substantially coextensive with the sidewalls (see fig. 2), and a protruding portion having a top surface and a bottom surface which is adjacent to, and which extends over and beyond, the opening (see fig. 2); the bottom surface of the protruding portion is a striking surface (see fig. 2, and respective portions of the specification); the thickness of the striking plate varies over the length of the plate (see fig. 2); the thickest portion of the striking plate is adjacent the sidewall opening (see figs.1, 2); the thickness of the protruding portion of the striking plate narrows gradually to form a thin unsecured end (see fig. 2); and an aperture (19) is present within a sidewall (see figs.1, 2).

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 6-11, 14-17, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,830,036 to Richardson.

Richardson discloses a wild game call comprising: a box (12) having a base attached to substantially vertical sidewalls (see figs.1-4), the sidewalls forming an opening (see figs.1, 3, 4); a striking plate (10) comprising at least one friction material (see column 8, lines 42-51) and having a main body (22) which forms the top of the box, the striking plate having a top striking surface (16), the main body is substantially coextensive with the sidewalls (see figs.1, 2), and a protruding portion having a top surface and a bottom surface which is adjacent to, and which extends over and beyond, the opening (see figs.1, 2); the bottom surface of the protruding portion is a striking surface (see figs.1-6, and respective portions of the specification); the striking plate is comprised of a plurality of friction materials (see column 8, lines 42-51); the plurality of friction materials are arranged such that one friction material provides the entire striking top striking surface; and the plurality of friction materials are arranged such that each friction material provides at least a portion of the top striking surface (see figs.1-6, and respective portions of the specification); the striking plate is further comprised of at least one hollow or semi-hollow structure (18) which extends along at least a portion of the length of the striking plate (see figs. 7-9); the at least one structure comprises at least one groove (28c) in the bottom surface of the striking plate (see figs. 3, 6); the shape of the at least one groove is selected from the group consisting of: rectangular, v-shaped, and rounded (see figs. 3, 6); the at least one channel is entirely enclosed within the striking plate (see figs.1-6); the at least one channel is comprised of at least one open

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end (see fig. 6); the plurality of friction materials are arranged such that one friction material provides the entire striking bottom striking surface; and the plurality of friction materials are arranged such that each friction material provides at least a portion of the bottom striking surface (see figs. 1-6, and respective portions of the specification); a material selected from the group consisting of galvanized steel, sand, weather resistant thermoplastic, and combinations thereof is embedded in the striking plate (see column 8, lines 42-51).

Claims 1, 2, 9-13, 15 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 2,511,403 to Fleener.

Fleener discloses a wild game call comprising: a box having a base (2) attached to substantially vertical sidewalls (4, 6, 8, 10), the sidewalls forming an opening (see fig. 1); a striking plate (14) comprising at least one friction material (24) and having a main body which forms the top of the box (see figs. 1-5), the striking plate having a top striking surface (see figs. 1, 2), the main body is substantially coextensive with the sidewalls (see figs. 1-5), and a protruding portion (20) having a top surface and a bottom surface which is adjacent to, and which extends over and beyond, the opening (see fig. 2); the striking plate is further comprised of at least one hollow or semi-hollow structure (grooves/serrations within plastic sheet 24) which extends along at least a portion of the length of the striking plate (see figs. 2, 4, 6); the at least one structure comprises at least one groove in the bottom surface of the striking plate (see figs. 4, 6); the shape of the at least one groove is selected from the group consisting of: rectangular, v-shaped,

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and rounded (the grooves are v-shaped); the at least one structure is comprised of channels in the striking plate (see figs. 4, 6); the shape of the at least one channel is selected from the group consisting of: triangular prism, rectangular prism, and cylinder (see fig. 6); the at least one channel is comprised of at least one open end (see figs. 4, 6); a material selected from the group consisting of galvanized steel, sand, weather resistant thermoplastic, and combinations thereof is embedded in the striking plate (see column 2, lines 1-14).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ali Abdelwahed whose telephone number is (703) 305-3311. The examiner can normally be reached Monday through Friday from 9:00 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703) 308-1745.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



AA
03/05/2004

DERRIS H. BANKS
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